

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 2001-01

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-120-00

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

**For Filing Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification ☐ Proposed ☐ Adopted By Agency ☒ Temporary ☐ Emergency ☐

Brief description of action: **Petition 2001-01 (LCB R-120-00)** is a permanent amendment to NAC 519A.235, the mining regulation and reclamation rules. The amendment establishes a trust fund for emergency reclamation activities with fees to be collected in the years 2000 and 2002.

Authority citation other than 233B: NRS 519A.160(1)

Notice date: July 20, July 25, July 26 and August 3, 2000

Hearing date: August 22, 2000

Date of Adoption of Agency: August 22, 2000

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PERMANENT PETITION 2001-01 (R-120-00)
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 519A. This permanent regulation deals with amendments to the mining reclamation program.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 2001-01 (R-120-00), was noticed four (4) times: July 20, July 25, July 26, August 3, 2000 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. A report was prepared that summarized the public meetings. Workshops were held on May 8, 2000 in Reno, May 9, 2000 in Las Vegas, May 11, 2000 in Winnemucca and May 12, 2000 in Elko. A second round of workshops occurred on August 15, 2000 in Reno, August 16, 2000 in Winnemucca and August 17, 2000 in Elko. The regulated community was mailed the proposed rules. The notice of the workshops were advertised in the Elko Daily Free Press, the Humboldt Sun, the Reno Gazette-Journal, and the Las Vegas Review-Journal and the Las Vegas Sun. The regulation was adopted by the State Environmental Commission on August 22, 2000. Verbal comments supporting the regulation were made by the Nevada Mining Association. A supportive written comment was made by the Great Basin Mine Watch (exhibit 3). No public verbal comments opposing the regulations were received. Written comments (exhibit 1 & 6) supporting the petition was submitted the by Nevada Mining Association. No written comments were received at the Commission's hearing opposing this permanent regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing;	25
(b)	Testified at each hearing:	1
(c)	Submitted to the agency written comments:	4

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices and public workshops. No oral testimony was received that opposed or supported the permanent regulation. Comments were received from Barrick Goldstrike Mines Inc. supporting the regulation (exhibit 2). A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted by the State Environmental Commission on August 22, 2000 with amendments. The Commission reviewed the recommended amendments from the Nevada Mining Association.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Estimated economic effect of the regulation on the business which it is to regulate;

Mine operators with process fluid stabilization needs may be required to post additional surety. Fees are based upon the total reclamation liability, with surety for process fluid stabilization required through mine closure. Fees for the readiness fund would be collected for three years and the fund is to be replenished by surety money collected.

(b) Estimated economic effect on the public;

The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The public would be better protected from possible financial impacts due to unsecured closure of mining operations and emergency fluid management obligations.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The emergency mining reclamation trust fund is not more stringent than federal requirements

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation establishes a new fee for the readiness trust fund. The regulation establishes a trust fund for emergency reclamation activities with annual fees being collected from the year 2000 to April 15, 2002. The total amount collected for the readiness fund is anticipated to be approximately \$ 1,000,000. The fund is to be used as a bridge to support the management of mining process fluids during the surety revocation process, with the fund being replenished by surety money collected.

**FILED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

LCB File No. R120-00

Effective September 25, 2000

Explanation - Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

Authority: §1, NRS 519A.160.

Section 1. Chapter 519A of NAC is hereby amended by adding thereto a new section to read as follows:

1. *In addition to the surety required pursuant to NAC 519A.350, on or before October 1, 2000, an operator of a mining operation that is required to hold a permit from the division of wildlife of the state department of conservation and natural resources pursuant to NRS 502.390 shall submit to the division:*

(a) Thirty-six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$35,000,000 as of the date the operator submits the money;

(b) Twenty-four thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$7,000,000 but less than or equal to \$35,000,000 as of the date the operator submits the money;

(c) Six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$1,000,000 but less than or equal to \$7,000,000 as of the date the operator submits the money; or

(d) One thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is less than or equal to \$1,000,000 as of the date the operator submits the money.

2. *In addition to the surety required pursuant to NAC 519A.350 and the payment required pursuant to subsection 1, on or before April 15, 2001, an operator of a mining operation that is required to hold a permit from the division of wildlife of the state department of conservation and natural resources pursuant to NRS 502.390 shall submit to the division:*

(a) Thirty-six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$35,000,000 as of the date the operator submits the money;

(b) Twenty-four thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$7,000,000 but less than or equal to \$35,000,000 as of the date the operator submits the money;

(c) Six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$1,000,000 but less than or equal to \$7,000,000 as of the date the operator submits the money; or

(d) One thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is less than or equal to \$1,000,000 as of the date the operator submits the money.

3. *In addition to the surety required pursuant to NAC 519A.350 and the payments required pursuant to subsections 1 and 2, on or before April 15, 2002, an operator of a mining operation that is required to hold a permit from the division of wildlife of the state department of conservation and natural resources pursuant to NRS 502.390 shall submit to the division:*

- (a) Thirty-six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$35,000,000 as of the date the operator submits the money;*
- (b) Twenty-four thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$7,000,000 but less than or equal to \$35,000,000 as of the date the operator submits the money;*
- (c) Six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$1,000,000 but less than or equal to \$7,000,000 as of the date the operator submits the money; or*
- (d) One thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is less than or equal to \$1,000,000 as of the date the operator submits the money.*
- 4. The division shall:**
- (a) Establish a trust fund for short-term fluid management;*
- (b) Deposit money collected pursuant to this section in the trust fund;*
- (c) Credit all interest earned on the money in the trust fund to the trust fund;*
- (d) Use the money in the trust fund only for the management of fluids at a site while the process for forfeiture of a surety pursuant to NAC 519A.390 is pending; and*
- (e) After the conclusion of the process for forfeiture of a surety pursuant to NAC 519A.390, if the surety was forfeited, reimburse the trust fund with the surety that was forfeited. Such reimbursement must be in an amount equal to the total amount of money used from the trust fund at the site for which the surety was forfeited.*
- 5. An operator that operates more than one mining operation in this state may combine the amount of surety required pursuant to NAC 519A.360 for each site to determine the total amount of surety the operator is required to provide pursuant to NAC 519A.360 for purposes of determining the amount of money to submit pursuant to this section.**

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